



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	5/01/01	Bill No:	SB 1184
Tax:	Property	Author:	Senate Revenue and Taxation Committee
Board Position:	§69.5– Support §170 – Support §425 – Neutral §532 – Support §606 – Support	Related Bills:	SB 1181 (SR&T)

BILL SUMMARY

This bill contains California Assessors' Association sponsored provisions to:

- Allow a taxpayer to qualify for a Proposition 60/90/110 base year value transfer if their home was destroyed in a non-governmental declared disaster. (§69.5)
- Extend from six months to one year the time period to file a claim for reassessment after a disaster. (§170)
- Limit the number of years that the Department of Finance or the Department of Conservation can audit assessors' Williamson Act subvention claims. (§425)
- Extend the number of tax years subject to escape assessment when a penalty for willful concealment of tangible personal property is applied, from six years to eight. (§532)
- Modify requirements where contiguous tracts of land under the same ownership need not be separately assessed when they cross tax rate areas. (§606)

ANALYSIS

Base Year Value Transfers Post Disaster – Proposition 60/90/110

Revenue and Taxation Code §69.5

Current Law

Revenue and Taxation Code Section 69 provides tax relief to persons who own property substantially damaged or destroyed in a *Governor-declared* disaster. This

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relief permits property owners to acquire or construct comparable replacement property within the same county and transfer the base year value from the damaged property to the replacement property. To receive a base year value transfer, the replacement property must be acquired within three years after the disaster. These provisions are applicable to any kind of property (i.e. residential, commercial, industrial etc.) (Proposition 50, June 1986 – Article XIII A, Sec. 2(e)(1).)

Revenue and Taxation Code Section 69.3 provides similar tax relief. However, it is limited to replacement *principal places of residence* (i.e. homes) located in a *different* county. This relief is available only if the county where the replacement residence is located adopts an ordinance accepting such base year value transfers. To date only five counties have adopted such ordinances. To receive a base year value transfer, the replacement residence must be acquired or newly constructed within three years after the disaster. (Proposition 171, November 1993 – Article XIII A, Sec. 2 (e)(2)

Revenue and Taxation Code Section 69.5 provides that persons over the age of 55 years and disabled persons may transfer, subject to many conditions and limitations, the base year value of their primary residence to a newly acquired replacement residence. Among the limitations on obtaining relief is the requirement that the acquired property be, generally, of equal or lesser value in comparison to the sold property. Proposition 60 (June 1986), Proposition 90 (November 1988), Proposition 110 (June 1990) – Article XIII A, Sec 2(a).

Proposed Law

This bill would amend Revenue and Taxation Code Section 69.5 to allow a base year value transfer to a person who is over the age of 55 years or disabled who would have been eligible for a base year value transfer, except that their principal place of residence was substantially destroyed or damaged by a misfortune or calamity and therefore disqualified because the value of the property in its damaged condition is not of “equal or less” value than the replacement property.

This bill would define "substantially damaged or destroyed by misfortune or calamity" to mean physical damage amounting to more than 50 percent of its full cash value immediately prior to the misfortune or calamity. Damage would also include “a diminution in the value of property as a result of restricted access to the property where the restricted access was caused by the misfortune or calamity and is permanent in nature.”

These provisions would apply to replacement dwellings that are acquired or newly constructed on or after March 24, 1999 commencing with the 1998-99 fiscal year. Thus, they would have an retroactive effect in terms of eligibility, but any tax relief would commence with the lien date of the assessment year in which the claim is filed (i.e. no refunds or cancellation of taxes prior to the date that the claim is filed).

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In General

Proposition 50 and Revenue & Taxation Code §69

All Property Types Purchased Within the County. Section 69 provides that persons who own property substantially damaged or destroyed in a Governor-declared disaster may transfer the base year value of that property to a property acquired or constructed as a replacement if it is acquired within three years after the disaster. Base year value transfers are available for all property types; with the limitation that the original property and the replacement property must be of the same property *type*: residential, commercial, agricultural, or industrial. The replacement property is “comparable” if it is similar in size, utility, and function to the destroyed property, and if the market value of the acquired property does not exceed 120% of the fair market value of the replaced property in its pre-damaged condition. Property owners may, nevertheless, still receive the disaster relief in cases where the value of the replacement property exceeds the 120% limitation. In such cases, the amount over this threshold is assessed at full market value.

Proposition 171 and Revenue & Taxation Code §69.3

Principal Place of Residence Purchased In Another County. The Oakland-Berkeley fire of October 21, 1991, prompted the passage of Proposition 171 which, in turn, authorized the enactment of Section 69.3. The fire’s destruction was so widespread, that not all displaced homeowners were able to find a suitable replacement residence located within their county’s boundaries. Those who purchased a replacement home outside that boundary lost the benefit of maintaining their previous level of property taxation.

To address this situation, voters approved Proposition 171 on November 2, 1993. It amended subdivision (e) of Section 2 of Article XIII A of the California Constitution to authorize the Legislature to provide that the base year value of property substantially damaged or destroyed in a Governor-declared disaster may be transferred to a replacement property located in another county, provided that the replacement property is: 1) located in a county that has an ordinance accepting such base-year value transfers; 2) of equal or lesser value than the original residence; and 3) acquired or newly constructed within three years of the disaster.

To date, five counties extend Section 69.3 property tax disaster relief to displaced homeowners: Contra Costa, Los Angeles, Modoc, San Francisco, and Solano.

Comments

1. **Sponsor and Purpose.** This provision is sponsored by the California Assessors’ Association. Its purpose is to provide the benefits of Proposition 60/90/110 to persons over the age of 55 or disabled persons when they are otherwise ineligible for a base year value transfer under Section 69 or 69.3

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because the damage to their property did not occur in a governor declared disaster (for example, a single house fire or a small mud slide where few properties were affected).

2. **Existing Law - Rebuild then Sell.** Under existing law a person could qualify for a base year value transfer under Proposition 60/90/110, if they first rebuilt their home (receiving a new construction exclusion under Section 70(c)), and then selling that home. This bill would allow a person to immediately purchase a home and receive a base year value transfer.
3. **Proposition 60/90/110 – Once in A Lifetime Benefit.** The base year value transfer provision is a constitutionally authorized one-time benefit to any person over the age of 55 or disabled. These amendments preserve this one time right to persons who would have been able to qualify but for the misfortune or calamity. Article XIII A, Section 2(a) provides that the Legislature may establish the appropriate circumstances and definitions for this benefit and this provision merely redefines the value test in this particular instance. It could also be reasoned that there is no constitutional basis for the proposed amendment, as the disaster provisions of Sections 69 and 69.3 were constitutionally provided benefits via Propositions 50 and 171.
4. **Pre- Damage Condition.** This provision redefines the value test in the situation where a property was damaged or destroyed in a misfortune or calamity to provide that the value of the original property will be that in its pre-damaged condition. Of course, valuing these properties would be a more subjective process since it would require that the appraiser estimate various aspects of the property, such as its condition.
5. **Current Tax Relief Provided After a Non-Governor Declared Misfortune or Calamity.** Under existing law, in non-governor declared disaster situations, property tax relief is available where a person rebuilds on the same site. Revenue and Taxation Code Section 70(c) provides that where property has been damaged or destroyed by a misfortune or calamity, the property will retain its previous assessed value after it is reconstructed. (Proposition 8, November 1978)
6. **Inequitable claims in the future.** In the future, it could be expected that similarly situated persons under the age of 55 will state that they are being unfairly treated.

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Disaster Relief

Revenue and Taxation Code § 170

Current Law

Under existing law, property taxes may be reduced following a disaster, misfortune, or calamity in those counties where the board of supervisors has adopted an ordinance authorizing the disaster relief provisions of Section 170 of the Revenue and Taxation Code. Disaster relief is provided by allowing the county assessor, under specified conditions, to reassess the property after the lien date to recognize the loss in a property's market value. The prior assessed value of the damaged property is reduced in proportion to the loss in market value; the new reduced value is used to calculate a pro-rata reduction in taxes. The affected property retains its lower value, with reduced taxes, until it is restored, repaired, or reconstructed. To receive the disaster relief, the property owner must file an application with the county assessor within 60 days of the date of the disaster to initiate reassessment.

Alternatively, if the owner does not file an application and the assessor determines that within the preceding 6 months the property had suffered damage caused by misfortune or calamity that may qualify the property owner for relief, the assessor may send an application to the property owner which restarts a new filing period. The taxpayer may file within 30 days of the date the application is sent by the assessor (but in no case more than 6 months after the date of the disaster). In some cases the assessor may reassess the damaged property even though the owner did not file an application, but only with the approval of the board of supervisors.

Proposed Law

Claim Filing Period. For non-assessor initiated reassessments, this bill would extend the period for taxpayers to file an application for reassessment after a disaster from 6 months to 12 months.

Comments

Many disaster victims may be unaware that property tax assessments can be reduced after a disaster and filing a claim for property tax relief may be of low priority. This bill would give disaster victims additional time to file an application for reassessment.

Although not yet contained in a bill, the Board voted to sponsor legislation to also amend Section 170 to revise the property tax disaster relief provisions to: 1) permit assessor initiated reductions generally, 2) give taxpayers more time to file a claim, 3) give taxpayers more time to file an appeal, and 4) increase the eligibility threshold level to \$10,000.

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Williamson Act Subvention Audits*Revenue and Taxation Code §425***Current Law**

Under current law, counties are partially reimbursed for revenue losses related to property under the Williamson Act. Five dollars per acre is subvended for prime land and one dollar per acre is subvended for non-prime land. The Department of Finance and the Department of Conservation audit counties' subvention claims. Currently there is no standard or limit to the number of years subject to audit.

Proposed Law

This bill would limit county subvention claim audits to the last four years.

Comments

While the intent of this of this bill is to limit the number of years open to audit, the actual language in the bill appears to relate to a taxpayer's assessment rather than the state's audit findings of the county's subvention claims.

Escape Assessments – Tangible Personal Property*Revenue and Taxation Code § 532***Current Law**

Revenue and Taxation Code Section 504 requires a 25% penalty to be added to escape assessments made under Section 502. This section relates to escape assessments where the person willfully conceals, fails to disclose, removes, transfers or misrepresents *tangible personal property* to evade taxation. Under current law, the number of prior tax years that taxes will be billed in this instance is generally six, whereas the number of prior tax years that will be billed when a change in ownership of real property is unrecorded is generally eight.

Proposed Law

This bill would increase from six years to eight the number of prior tax years that will be billed when a 25% penalty for willful concealment of personal property is levied.

Comments

The sponsors do not believe that the number of escape assessments levied for willful concealment of personal property should be less than that applied when a change in ownership of real property is unrecorded, which most often occurs with interfamily transfers due to a death and often is the result of ignorance rather than a willful act.

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Contiguous Parcels

Revenue and Taxation Code §606

Current Law

Under existing law, when any tract of land is situated in two or more revenue districts, the part in each district must be separately assessed. However, when the owner of two or more contiguous parcels comprising the land tract is identical, the parcels may be combined into one assessment under two circumstances:

1. The full value of any parcel is less than five thousand dollars (\$5,000), in which case that parcel may be combined with the contiguous parcel with the greatest assessed valuation.
2. The tract of land is being used for a single-family residence and constitutes 15,000 square feet or less, in which case the smallest parcel may be combined with the largest contiguous parcel.

Proposed Law

This bill would amend Revenue and Taxation Code 606 to increase the exceptions to 1) land values of less than \$25,000 and 2) land used for single family residences with a size of 45,000 square feet or less.

Comments

This bill would reduce the number of assessments for small strips of property that must be established because the land crosses tax rate areas. According to the sponsors, with more special assessments and special taxes levied per parcel, property owners want to combine these contiguous parcels to eliminate these fixed parcel charges.

Amendments

1. **Parent-Child Change In Ownership Exclusion – Signatures** (§ 63.1) As introduced this bill would have eliminated the need for the transferor to sign the claim form. Instead one of the transferees would attest to the parent-child relationship. Additionally, only one of the transferees need sign the claim form. These provisions were deleted by the April 19 amendment.
2. **Religious Exemption Claims.** (§257) As introduced, this bill would have changed the annual date by which taxpayers receiving the religious exemption must return a postcard to the assessor from June 30 to February 15 indicating whether they are still eligible for the exemption, in order to retain the exemption for the following year. This provision was amended out of the bill by the May 1 amendment.

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COST ESTIMATE:

The Board would incur some minor, absorbable costs in informing and advising county assessors, the public, and staff of the change in law.

REVENUE ESTIMATE:

The change in the base-year value transfer provisions after a disaster would have some minimal revenue impact since a person would not have to wait to rebuild their property prior to receiving the base year value transfer.

The change in the statute of limitations for escape assessments would have some minimal revenue impact. According to assessors, the current six-year period is rarely evoked because of the difficulty of establishing “willful intent.” The other provisions of this measure would also have a minimal revenue impact.

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